

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ELIZABETH PAYNE	§	
	§	
VS.	§	NO. 3:09-CV-00595-B
	§	
FRIENDSHIP WEST BAPTIST	§	
CHURCH	§	

**MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, FRIENDSHIP WEST BAPTIST CHURCH, Defendant, and, pursuant to Fed. R. Civ. P. 56 (a) and Local Rules 56.3 and 56.5, files the following motion for summary judgment, and would show in support thereof:

1.

**HEADING**

A.) Ground on which summary judgment is sought:

1.) Failure to present genuine material fact issue on Title VII employment discrimination claim:

Part of a plaintiff's burden of proof under a Title VII employment discrimination is that she was treated less favorably because of her membership in the protected class than were other similarly situated employees who were not members of the protected class, under nearly identical circumstances. Defendant contends that Plaintiff has failed to prove a prima facie case under this element because she has failed to show a similarly sufficient comparator employee who committed a similar violation but was less harshly punished.

B. Factual Basis of the Argument:

Plaintiff contends she was terminated from her employment with Defendant because she was caught engaging in a sexual email relationship with a pastor from another church. She contends that other church employees, both ministry and non-ministry, engaged in adulterous affairs but were not terminated and allowed to retain their employment. Defendant will show, in the brief in support of this motion, that even viewing the facts in the light most favorable to Plaintiff, she is unable to show a comparable employee who committed a violation under nearly identical circumstances, but was not terminated from employment.

2.

Reference to Supporting Brief

Further discussion of these issues, and arguments and authorities in support thereof are found in Defendant's brief supporting this motion.

WHEREFORE, Defendant prays that its motion for summary judgment be in all respects granted.

Respectfully submitted,

/s/ Faith S. Johnson

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Counsel for Defendant

CERTIFICATE OF SERVICE

This is to certify that I have served a true copy of this motion for summary judgment on Susan E. Hutchinson, Foreman, Lewis & Hutchinson, 611 Main Street, Suite 700, Grapevine, Texas 76051, via the ECF system on this 11<sup>th</sup> day of February, 2010.

/s/ *John D. Nation*  
John D. Nation